

Tennis, Rachel

From: Tennis, Rachel
Sent: Wednesday, July 16, 2014 9:20 AM
To: Donnan, John
Cc: 'Mercado, Rebecca'; mlow@mattlowassociates.com
Subject: RE: Yosemite Slough

Dear Mr. Donnan:

I write in response to your letter of May 21, 2014 on behalf of DCO Management LLC, the corporate successor of Kaiser Aluminum & Chemical Corp. ("KACC"), regarding the Yosemite Slough Superfund Site ("Site"). EPA does not agree that KACC's liability related to the Site was discharged during bankruptcy. As stated in your letter, EPA and KACC entered into a Consent Decree on August 17, 2003, and KACC's Plan of Reorganization went into effect on July 6, 2006. EPA's claim did not arise until several years after the Effective Date of the Plan. *See, e.g., In re Jensen*, 995 F.3d 925, 930 (9th Cir. 1993) (holding that an environmental claim arises pre-petition and can be discharged only when the release of hazardous substances could have been "fairly contemplated by the parties"). EPA did not become aware of the Yosemite Slough Site or the relationship between the Bay Area Drum facility and the Yosemite Slough Site until after the Effective Date of the Plan. The Regional Water Quality Control Board requested EPA's assistance with Yosemite Slough in 2007. EPA then undertook an investigation of potentially responsible parties and issued a General Notice Letter to KACC on February 21, 2008. EPA therefore encourages DCO Management to participate in the PRPs' mediation process and in future settlement discussions with EPA.

Regards,

Rachel Tennis
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From: Mercado, Rebecca [mailto:Rebecca.Mercado@kaiseral.com]
Sent: Wednesday, May 21, 2014 2:41 PM
To: Tennis, Rachel
Cc: Donnan, John; mlow@mattlowassociates.com
Subject: Yosemite Slough

Ms. Tennis,

Please find attached our response to Notice of Intent to Issue Special Notice Letters for the Yosemite Slough Site in San Francisco, California.

Thank you.

Rebecca

Rebecca Mercado
Corporate Paralegal

Kaiser Aluminum

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